

Acquisition and Disposal of Information Technology Resources in Washington State Government

Policy Guidelines

**An Easy Reference to the Policy and Procedures
Adopted by the Information Services Board**

**Office Of
Information Technology Oversight**



*Washington State Department of
Information Services*

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Introduction

This booklet was prepared by the Office of Information Technology Oversight (OITO) as a reference and guideline for the information technology (IT) acquisition policies and procedures practiced in Washington State. It is a companion document to the Acquisition and Disposal of Information Technology Resources Policy, adopted by the Washington State Information Services Board (ISB) April 1995. This policy is located in section 4 of the IT Policy Manual.

The OITO has been directed by the ISB, under Chapter 43.105 RCW, to provide oversight for IT projects and to assist agencies in successfully completing information technology acquisitions. The oversight process happens in conjunction with policies and guidelines established by the Office of Financial Management (OFM), and the General Administration (GA). Per Chapter 43.105 RCW, continued funding of IT projects is dependent upon successful completion of process milestones, Key Decision Point Reviews, and OITO regulatory functions.

Information about IT policies can be found on the Internet! Here are some important internet addresses.

OITO Home Page

http://olympus.dis.wa.gov/pub/info_services/prd/prdhome.html

Doing Business With Washington State

<http://olympus.dis.wa.gov/procurements/business.html>

Procurement Announcements

<http://olympus.dis.wa.gov/1m/procurements/itnotices/notices.txt>

Vendor Listings

<http://olympus.dis.wa.gov/procurements/it/vendor.html>

The ***Office of Information Technology Oversight*** has a “HOT LINE” for general information inquiries. The number is (360) 902-3557. Of course agencies can call OITO by phone, but did you know you can send email to OITO through the Internet? That’s right, if you have Internet access or a gateway from your agency mail system, you can email your OITO coordinator. **Email addresses are located at the end of this booklet.**

Requirements For Competitive Solicitation

Information Services Board Acquisition Policy

Estimated Acquisition Cost			
\$0 - \$9,999	\$10,000-\$99,000	\$100,000-\$249,000	\$250,000- Above
<ul style="list-style-type: none"> • Direct buy permitted 	<ul style="list-style-type: none"> • Advertise at Agency discretion • At least three vendors (when available) receive written or verbal requests • State requirements in writing or verbally • Inform bidder of protest procedure • Communicate changes in requirements to all bidders • Bidder response in writing • Evaluate all proposals against requirements • Document evaluation process • Offer vendor debriefing 	<ul style="list-style-type: none"> • Place notice in regional newspaper and on acquisition server • At least five vendors (when available) receive written requirements • State requirements in writing • Send protest procedures • Send applicable Ts&Cs • Send changes to all bidders in writing • Bidder responds in writing • Evaluate all proposals against requirements • Document evaluation process • Offer vendor debriefing 	<ul style="list-style-type: none"> • Place notice in regional newspaper and on acquisition server • Send written requirements to all who request them • State requirements in writing • Send protest procedures • Send applicable Ts&Cs • Send changes to all bidders in writing • Bidder responds in writing • Evaluate all proposals against requirements • Document evaluation process • Offer vendor debriefing

Terms Defined

Acquisition Cost	First year acquisition or lease cost of the IT resource being acquired, including all hardware, software, networking telecommunications equipment, installation, maintenance, training, and purchased services.
Delegated Authority	An authorization granted by the ISB to an agency director to acquire and/or dispose of IT resources. Acquisitions beyond the delegated authority amount must receive appropriate approval from the ISB or OITO.
Feasibility Study	A structured process to accumulate the information required to evaluate the costs, risks, benefits, and “reality” of an IT proposal. Usually done when sufficient functional and technical design have been completed to articulate the major objectives of a project, and define the work necessary to complete those objectives.
Information Technology “IT”	Equipment, software, and purchased services related to storing, processing, transmitting, and displaying all forms of information. IT includes data processing, office automation, multi-media, and telecommunications.
Interagency Transfer	The transfer of ownership or license of IT resources from one agency to another.
IT Acquisition	The process for procurement of IT resources (goods and services), regulated by legislation and policy, designed to promote fair and open competition.
IT Disposal	The act of removing IT resources from agency accounting and inventory records, and disposing of them as “surplus”, per policy regulation.
Master Agreement	An optional-use contract for IT products and/or services established - by DIS only - through a competitive solicitation. {RCW 43.105.052 (2d)}
Personal Services	Professional or other technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. {RCW 39.29.006 (7)}
PIR	Post Implementation Review. When required by the OITO, usually performed 12-18 months after completion of project.
Private Sector Partnership	An agreement between a public agency and a private sector company to acquire new and innovative technology for the purposes of learning, research, and evaluation.
Purchased Services	Services provided by a vendor to accomplish routine, continuing, and necessary functions, such as equipment maintenance and repair, security, equipment installation, and programming and data processing services.
RFI	Request for Information. Used to gather information about the IT market and suppliers from vendors. RFI is helpful in preparing the RFP.
RFP	Request for Proposal. Used to solicit specific vendor proposals for IT solutions.
RFQ	Request for Quotation. Used to competitively solicit specific price quotes.
RFQQ	Request for Quotation and Qualification. Used to solicit specific price quotes, and determine qualifications of a vendor to deliver goods and services.
Sole Source	Vendor documented as the only supplier providing a specific IT resource valued under \$10,000.
System Lifecycle Cost	The Acquisition cost plus any other costs for development, financing, maintenance, training and operations over the expected life of the resource or five years, whichever is less.

Policy Highlights

- The Acquisition and Disposal of Information Technology Resources policies apply to any acquisition on or after July 1, 1995. Statutory authority comes from RCW 43.105.
- The ISB requires agencies to provide public notice of IT procurements worth more than \$99,999 through two media: a regional newspaper and some form of on-line access. The OITO offers a procurements bulletin board as a free service to state agencies. Information for posting may be FAXed to (360) 664-0495, or sent to the following electronic mail address: acquisitions@olympus.dis.wa.gov
- ISB approval is required for acquisitions if one or more of the following apply:
 - ◊ the agency is an institution of higher education seeking to enter into partnership with a private sector company. (an academic strategic partnership.)
 - ◊ the acquisition cost is greater than 3 million.
 - ◊ the system lifecycle cost is greater than 6 million.
- OITO approval is required for acquisitions if one or more of the following apply:
 - ◊ acquisition cost is greater than the agency head's delegated authority but less than 3 million.
 - ◊ system lifecycle cost is greater than the agency head's delegated authority but less than 6 million.
 - ◊ acquisition cost is less than the agency head's delegated authority but one or more of the following apply:
 - * the acquisition does not adhere to established standards
 - * the acquisition is not consistent with the agency's strategic IT plan
 - * the agency seeks to enter into a private sector strategic partnership
- The ISB can delegate authority to agency Directors for acquisition or disposal of IT resources. The three basic levels of delegated authority are:
 - ◊ none - the agency has no minimum level of IT purchasing authority.
 - ◊ \$250,000.
 - ◊ \$1,000,000.
- Delegated authority does not exempt an agency from ISB policies, it only exempts the agency from obtaining ISB or OITO approval prior to the acquisition.
- Agencies shall use only the following acquisition methods:
 - ◊ competitive solicitation (RFP, RFQ, RFQQ, other).
 - ◊ master agreement
 - ◊ existing state or federal contracts, under defined circumstances
 - ◊ sole source
 - ◊ academic strategic partnership
 - ◊ private sector strategic partnership
 - ◊ interagency transfer

- A video telecommunications expenditure plan must be submitted to OITO before an agency may spend any portion of appropriation for new video telecommunications equipment, or programming for expanding current video telecommunications systems.
- Other policies and approval authorities exist for certain kinds of acquisition:
 - ◊ Financial Systems - OFM must approve acquisition of most financial systems.
 - ◊ Personal Services - OFM must review/approve personal services contracts in the amount of \$2,500, or more. (other OFM and LBC rules apply to personal services contracts)
 - ◊ Lease/Purchase - The State Finance Committee must approve lease/purchase or financial arrangements over \$10,000.
 - ◊ Supplies - GA maintains policies related to the acquisition of supplies. ISB policies apply only if supplies are included as part of the initial IT acquisition.
- The following protest procedure is available to vendors who responded to an agency's solicitation, and have had a debriefing conference:
 - ◊ directly to the agency within five business days of the debriefing conference.
 - ◊ to DIS-OITO only after protesting first to the agency, and the agency resolution is not satisfactory. Protest must be received within five business days of the agency decision.
 - ◊ to the ISB for acquisitions approved by the ISB. Protest must be received within five business days of the agency decision.
 - ◊ to the ISB for DIS acquisitions, after first protesting to DIS. Protest must be received within five business days of the agency decision.
- The following requirements apply to disposal of surplus IT equipment:
 - ◊ no approval required for disposal of IT equipment valued at \$100,00, or less.
 - ◊ DIS-OITO approval required for disposal of IT equipment in excess of \$100,000. agencies shall estimate the value of IT equipment at the higher of market vales or depreciated value. Depreciated value is calculated using the straight line method, and no longer than five-year useful life.

NOTE - Agencies can request permission from OFM to vary IT depreciation schedules to match useful life of specific IT purchases.

- The OFM financial and administrative manual provide further information on IT disposals. Agencies are not required to report surplus IT equipment to GA-DCR. However, agencies are encouraged to make surplus IT resources available:
 - ◊ to other state agencies.
 - ◊ to school districts.
 - ◊ to non-profit organizations.

Frequently Asked Questions

How does an agency find which Policy Advisor from OITO is assigned as coordinator for that agency?

Agencies can call the OITO information line at (360) 902-3557 to find out who is assigned as their agency coordinator. This information is also available:

- in the IT Policy Manual provided each agency.
- on the Internet at <http://olympus.dis.wa.gov>

What if the acquisition is within the agency's delegated authority?

If the acquisition is not otherwise restricted, the agency conducts the acquisition or disposal in compliance with the ISB Policy for Acquisition and Disposal of IT Resources (April 1995), and in compliance with the agency's own policies and procedures. This policy is published and distributed to agencies in the IT Policy Manual.

What if the acquisition is above the agency's delegated authority?

An acquisition plan must be completed by the agency and approved by OITO or the ISB, depending upon the acquisition cost or the system lifecycle cost. Additional regulation may also apply.

What is the difference between "Purchased Services" and "Personal Services?"

Purchased Services means services provided by a company, vendor, or individual to accomplish routine, continuing and necessary functions. Some examples include, maintenance, security, installation, and data entry. Purchased Services fall under ISB policy.

Personal Services means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work assignment. Personal Services fall under OFM policy.

Which rules apply when the acquisition is a mixture of Personal and Purchased Services?

The primary purpose of the acquisition determines this answer. Generally, where the most money is spent indicates the purpose of the contract, and determines which rules apply.

In many instances, the AG or OFM may have additional approval authority. If unclear, agencies should check with these offices, or their Internal Contracts Officer.

When do I need to get OITO permission to acquire information technology goods or services?

Generally, approval is necessary when the cost of the acquisition exceeds the agency's amount of delegated authority or when the acquisition is not consistent with ISB technical standards or when the acquisition is not consistent with the agency's Information Technology plan. See Section I of ~~ISB~~ Policy for Acquisition and Disposal of IT Resources (April 1995), titled "Approvals". Subsection 2 and 3 address the need for approval from DIS and the ISB.

When can I use DIS master contracts?

DIS master contracts are for the discretionary use of state agencies, local governments, and political subdivisions. These contracts offer a wide range of information technology products at favorable terms.

When considering the use of master contracts buyers are encouraged to check current market conditions from several sources of supply. This will help insure that you receive the best possible terms. In addition, when using a master contract be sure to purchase only those items that are explicitly covered by the contract; companies may not sell other items not identified in the terms of the contract itself.

When do I need to conduct a competitive acquisition for IT goods or services?

Agencies should conduct a competitive acquisition when spending more than \$10,000 and the items or services purchased are not available at favorable terms from an existing contract such as a Master Contract. See the *Requirements* section of the ISB Acquisition Policy, Section II, part 2 for specific procedures.

When do I need to advertise a planned purchase of IT goods or services?

You must advertise planned purchases over \$100,000. Advertisements must be in a regional newspaper and posted to an on-line service. Call (360)-902-3557 for specific instructions on utilizing the OITO WEB page for this purpose. Agencies are encouraged to advertise other planned purchases worth less than \$100,000 whenever practical.

How many bids must I solicit in order to satisfy competition?

For purchases between \$10,000 and \$99,999 at least three companies (when available) must receive a solicitation to bid. For purchases between \$100,000 and \$249,999 at least five companies (when available) must receive a solicitation to bid. For purchases above \$250,000 you must send the written solicitation to bid to all companies who respond to your advertisement.

Are there exceptions to the “normally competitive” bid requirements?

Yes. Agencies may identify situation when a competitive process may not fit a particular situation, e.g., recovery from a disaster, sole source, academic strategic partnerships, and private sector partnerships.

When can I use an existing contract established by another agency?

State agencies may use contracts established by other agencies in three situations. First, agencies may purchase from Master Contracts or Corporate Agreements established by DIS. Second, agencies may purchase from an existing contract established by another agency. This is possible when the original solicitation document stated that other agencies may use the resulting contract and when the two agencies sign an agreement under the Interlocal Cooperative Act. Third, an agency may duplicate an existing contract between a company and another agency. This is permissible when the business requirements of the two agencies are identical and market conditions are favorable. Some restrictions apply, however, as to the length of time from the signing of the original contract that this may be done. See the Requirements section of the ISB Acquisition Policy, Section II, part 3 for specific procedures.

How can a Project Manager or technology planner for an acquisition access DIS 1) Master Agreements, 2) Interlocal Cooperative Agreements, and 3) Corporate Agreements?

Information on Master Contracts may be found on the WWW at <http://www.wa.gov/dis/tsd/contract.html>. Information is also available via GA's FAX On Demand (360) 664-2444. Purchaser Information bulletins on each of the Master Contract are mailed to agencies about six times per year. Agencies can also call the TSD Master Contract Administrator at (360) 902-3301 for contract information.

Interlocal Cooperative Agreements can be accessed by calling Debbie Dunn at DIS Office of Information Technology Oversight, (360) 902-3551.

Corporate Agreements can be accessed through DIS Technology Brokering Services at (360) 586-4528.

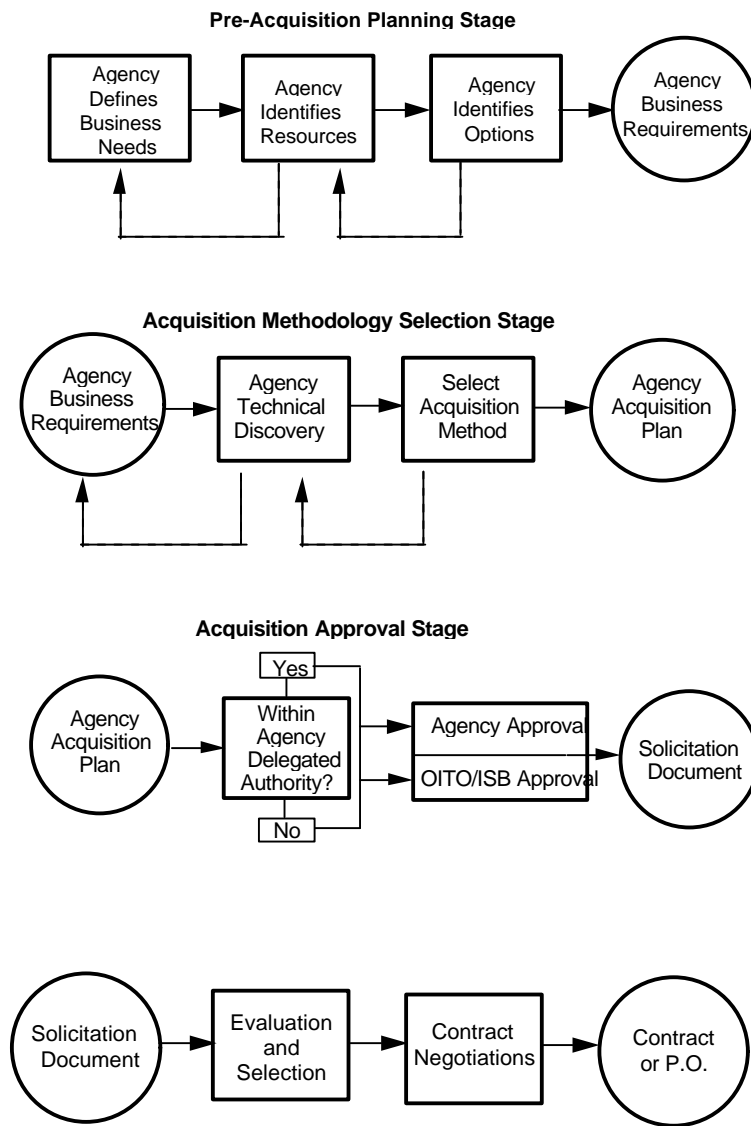
How do I find out if a company is a minority or woman owned business?

Call the Office of Minority and Women's Business Enterprises at (360)-753-9693. Or search the database of minority and women owned businesses on-line via the world wide web.

How does an agency locate vendors and contractors?

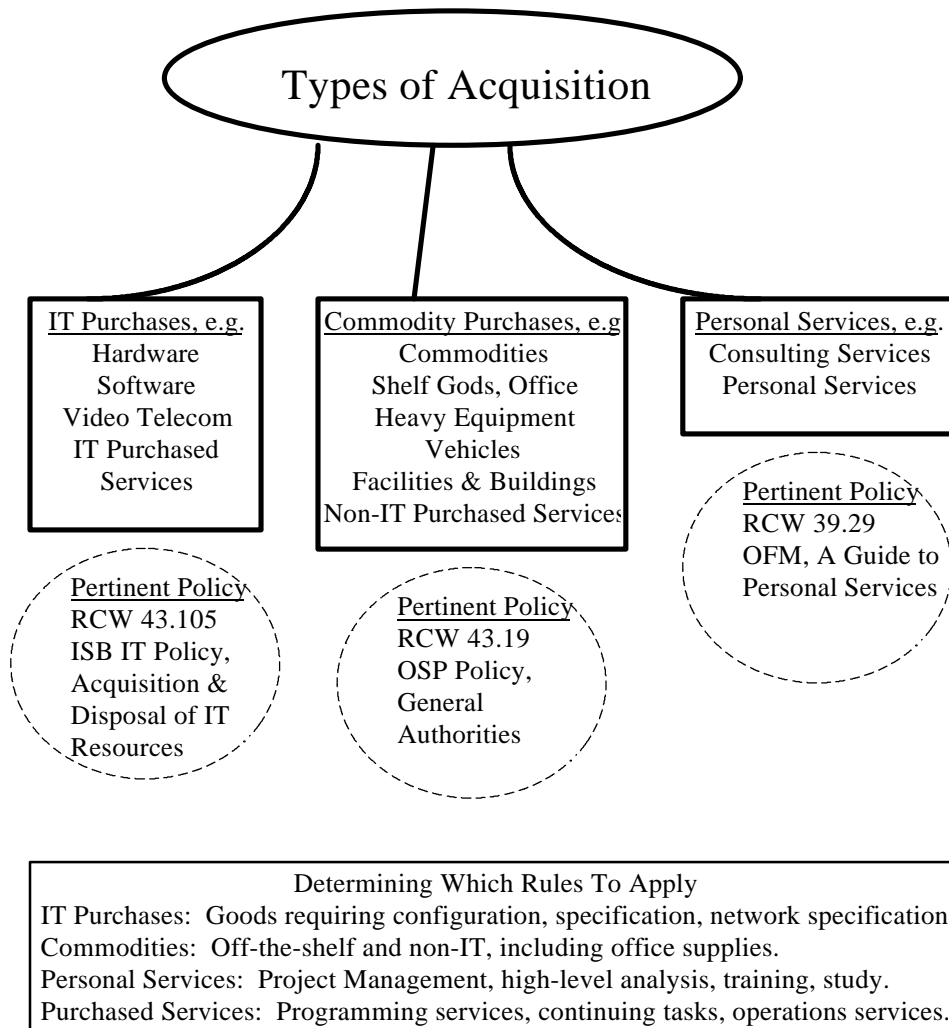
OITO maintains a list of over 700 companies offering IT hardware, software, and purchased services. To request a search of this list call the OITO information line at (360) 902-3557.

The Acquisition Process



Which Guidelines To Use

The three main bodies governing acquisitions are the Office of State Procurement (OSP), the Office of Financial Management (OFM), and the Information Services Board (ISB). IT acquisitions sometimes contain components that could come under more than one set of rules, or that become vague as to which rules apply. The information on this page is a guide to help agencies sort out which guidelines to use in unclear situations.



Policy Reference and Guidelines

This reference section provides an interpretive tutorial for the acquisition and disposal of IT resources (equipment, software, and services). These Guidelines are a companion to the Information Services Board (ISB) Policy and Requirements for the Acquisition and Disposal of Information Technology (IT) Resources (April 1995), which are administered by the Department of Information Services Office of Information Technology Oversight (OITO).

The objectives of these Guidelines are to:

- Help agencies apply the Information Services Board (ISB) Policy and Requirements for the acquisition and disposal of IT resources.
- Help agencies understand the acquisition process for acquiring the IT resources to meet the agency's business needs.

Please note that most topics contain a reference to the specific portion of the IT Policy Manual that addresses that topic.

ACADEMIC STRATEGIC PARTNERSHIP

Higher education institutions may enter into academic strategic partnerships. Many, if not most of these partnerships involve special pricing or products that are made available to educational institutions. While these partnerships might involve academic and research applications, this policy requirement is intended to address only academic strategic partnerships for business and administrative applications. These may only be entered into with the approval of the ISB or its designated subcommittee. This approval requirement is irrespective of the institution's delegated authority. [Section II, number 4 (b), page 16]

ACQUISITION PLAN

An acquisition plan is a document prepared for acquisitions that need OITO or ISB approval (see Approvals). However, agencies are encouraged to prepare their own internal "acquisition plan" even if it does not need formal approval by OITO. The content of acquisition plans may take the form of a narrative or may consist of other documentation, as long as the content required by policy is addressed. (Note: See the topics "Approvals" and "Delegated Authority" for related information.) [Section I, number 4, page 11; Acquisition Approval Request form provided in Policy Appendix A]

ADVERTISING ACQUISITIONS

The ISB now requires state agencies to provide public notice of their procurements of information technology goods or purchased services worth more than \$99,999. The ISB requires that notice be provided through two media: a region newspaper (such as the Seattle Daily Journal of Commerce) and some form of electronic bulletin board available from the world-wide network of computers known as the Internet. For purchases below \$99,999 agencies are encouraged, but not required, to provide notice through whatever media they choose.

OITO offers a "procurements bulletin board" as a free service to state agencies. To place your notice, regardless of the size of the procurement, simply email the following information:

- Description of the items or purchased service being acquired
- Closing date of the bid
- Agency name
- Contact name
- Contact phone number and electronic mail address (if available)

Send this information to the following Internet electronic mail address: acquisitions@olympus.dis.wa.gov
You may also fax the information described above to the following fax number: (360) 664-0495.
[Section II, Chart, page 13]

APPROVALS

OITO approval is required for acquisitions when one or more of certain conditions applies relating to: the agency head's delegated authority, acquisition cost and system life cycle cost; state technical standards; consistency with agency IT plan; private sector strategic partnerships. When any of the conditions outlined in policy exist, OITO approval must be obtained prior to conducting the acquisition and prior to the release of any formal solicitation document. However, OITO may delegate any or all subsequent steps in the acquisition process to the agency head. Note that conditions such as conformance with standards, inconsistency with the agency's IT plan, and the establishment of partnerships require OITO approval irrespective of the agency's delegated authority [Policy Statement number 6, pages 2-3; Section I, number 2, page 10; Section I, number 4, page 11; Acquisition Approval Request approval form provided in Policy Appendix A]

ISB approval is required for acquisitions when one or more of the certain conditions applies relating to: the agency head's delegated authority, acquisition cost and system life cycle cost; academic strategic partnerships. When any of the conditions outlined in policy exist, ISB approval must be obtained prior to conducting the acquisition and prior to the release of any formal solicitation document. Because this latter policy requirement may affect the solicitation schedule, it is important to keep the OITO agency coordinator in the loop so that release approval can be expedited. The ISB may delegate any or all subsequent steps in the acquisition process to the agency head. Note that conditions such as academic strategic partnerships require ISB approval irrespective of the agency's delegated authority [Policy Statement number 7, page 3; Section I, number 3, page 11; Section I, number 4, page 11]

In addition, agencies must follow the policy of the Office of Financial Management for all financial systems acquisitions and personal services acquisitions, the State Finance Committee for lease/purchase arrangements (if over \$10,000), and the Department of General Administration for supplies, furnishings, and non-technical purchased services. [Policy Statement number 5, page 2; Section I, number 1 (c), page 10]

BEST AND FINAL OFFER

At the discretion of the agency, a best and final offer (BAFO) process may be included in a solicitation document. There is no policy that requires or prohibits an agency from using a BAFO process. This process—if used—needs to be described in sufficient detail in the solicitation. The provision for a BAFO must either appear in the solicitation document or must be an amendment to the solicitation document prior to the due date of submissions.

A BAFO can be used when various candidates for selection of an “apparently successful vendor” by the agency have all submitted business solutions that the agency considers more-or-less equally viable, or where the agency needs modified requirements to take into account new or critical information that could affect some portions of the solution. BAFOs are generally used in more complex solicitations, such as systems integration RFPs.

BAFOs are generally not done for small hardware or software purchases, though they might be used in cases of large agency-wide purchases where there are no significant differences in price or performance between bidders. A BAFO can be used to advantage by agencies to get the absolute rock-bottom price/performance combination when there are competing and equally attractive technical solutions, and where price/performance solutions are very close—or, when the agency cannot afford any of the solutions. It provides companies with that last chance to shave costs and perhaps reduce their profit margin to get the award.

BEST VALUE

Best value means that lowest price is not necessarily the single or most important criteria in acquiring IT resources. In addition to cost, however, agencies might also consider other criteria:

- The quality and effectiveness of the proposed business solution, product, or service;
- The technical merit of the proposed solution, product, or service including use of current and innovative technologies;
- The facilitation of data exchange, interoperability, and open standards;
- The ability to take advantage of future upgrade paths;
- Use of proven methodologies and tools;
- Consistency with the agency's and state's business and strategic direction;
- The company's performance record, financial stability, experience in the problem or product area, and research and development direction;
- The operational costs incurred by the agency if the acquisition is awarded;
- The reliability of delivery and implementation;
- Warranties, guarantees, or assurances.

[Policy Purpose number 2, page 1]

BRAND-NAME PRODUCT

A "brand-name" product means that a specific product—to the exclusion of others—may be the best product to meet an agency's needs. For example, there may be a particular hardware platform that is needed in order to run a particular software suit required by a federal program with which an agency is involved. However, it is not "sole source" since there happen to be several companies that carry the brand-name item in their product line. Thus, there can be price competition for the given product. Agencies may only specify a brand-name product that has been established through a documented process of research and discovery. Such brand-name product may only be used as a requirement in the acquisition process if the specified product satisfies one or more conditions under policy. Some agencies may wish to establish such a brand-name product as an "agency standard" for future purchases. This practice is not prohibited as long as the conditions which justified the "standard" continue to exist such that the agency's documented research and discovery is valid despite changes in the market. An "agency standard" does not excuse the agency from continuing to test the relevance of the standard against advances in market products and to comply with ISB technical policy.

[Policy Statement number 9, page 4]

COMPETITION

With few exceptions the acquisition of information technology resources shall normally be the result of full and open competition to the fullest extent practicable and consistent with ISB policy and requirements. An acquisition is generally considered to be "competitive" when the agency has made the effort—consistent with ISB requirements for competitive solicitations—to provide responsible bidders with reasonable opportunity and access to the acquisition process. Such reasonable opportunity and access may be facilitated in the following manner:

- Clearly define the acquisition method and process to be used in a particular circumstance as well as the agency business and technical requirements for the acquisition.
- Advertise the acquisition through use of public communication channels such as regional/national publications and electronic bulletin boards on the Internet.
- Distribute applicable acquisition documentation to as many available bidders as is reasonable and practicable under the particular circumstances consistent with policy for competitive solicitations.
- Provide for distribution of information, access to acquisition personnel for questions and answers, and notification of changes to parties who have indicated an interest in the acquisition.
- Evaluate all complete, properly prepared proposals which have been submitted on time (agencies are not required to evaluate late, incomplete or improperly prepared submissions).
- Provide to all bidders the process for complaints, debriefing and protests regarding the acquisition.
- Make the final award consistent with the selection process identified to bidders.

[Policy Purpose number 3, page 1; Section II, Chart, page 13]

COMPLAINTS

Companies may submit their complaints to an agency prior to responding to a solicitation document if a company believes the solicitation document unduly constrains competition or contains inadequate or improper criteria. The complaint process applies to all agency acquisitions and is a separate process from the protest procedure. The complaint shall be made in writing to the agency before the due date of the solicitation response. The agency solicitation process may continue during the complaint period. A copy of the complaint shall be forwarded to OITO by the receiving agency without delay. The agency should respond to the complaint and inform OITO of their response. OITO may take steps to intervene such as requiring modification of solicitation requirements, modification of schedule, or withdrawal of the solicitation. The resulting decision is final with no further administrative appeal available.

[Section III, number 1, page 18]

CONTRACT CLAUSES

Contractual terms and conditions shall be included in solicitation documents when indicated by dollar threshold requirements for acquisitions. In these cases, agencies shall use the "Standard Clauses" as contained in Appendix B of the acquisition policy, and other terms and conditions appropriate to the specific type of contract to be negotiated. The provisions labeled "Standard Clauses" are mandatory in content, meaning agencies must include the titles of these clauses and language that accomplishes the same intent. However, it is strongly recommended that agencies check with their agency's assistant attorney general to ensure that the intent and integrity of the Standard Clauses is satisfied. Additional contract clauses shall have the approval as to form of the agency's assistant attorney general. Terms and conditions must be provided in solicitations when the estimated acquisition cost is \$100,000 or more.

[Policy Statement number 11, page 4; Section II, Chart, page 13]

Information technology contracts must be in writing. Agencies should document performance obligations in writing to the extent deemed necessary to protect the agency's investment in information technology resources. Agencies should consult with their assigned assistant attorney general in defining performance obligations. It is recommended that contract clauses cover (at minimum) the following points:

- Standard Clauses
- Other terms and conditions desired by the agency which may include provisions to be negotiated with the vendor.
- Circumstances under which penalties might be incurred by the bidder for failure to meet performance obligations.

[See Acquisition Policy, Appendix B, for sample Terms and Conditions]

In addition to these topics, there are other topics that could be included in the solicitation document. While not strictly "contract clauses" in the sense used above, these topics can establish other protections. Some additional topics are:

- A statement notifying bidders that the agency may not sign a final contract until protests, if any, are resolved.
- A negotiation and completion schedule for the contract signing including any special contingencies that must be satisfied.
- Instructions detailing the basis of negotiations i.e. model contract, vendor form contract, field order, purchase order or other.
- Circumstances under which the agency may discontinue negotiations with the successful vendor and commence negotiations with the next highest ranking vendor.
- A notice that no part of an executed state contract may be made proprietary by the vendor as contracts are subject to disclosure.

CORPORATE AGREEMENT

Corporate Agreements may be negotiated and administered by DIS with the manufacturer or provider of an information technology product or service where significant advantages will result to the state. Products and services may also be available to local governments if their local purchasing regulations so allow.

Agencies may acquire IT resources from a DIS established Corporate Agreement on a discretionary basis from DIS. Agencies are not required to undergo further requirements pertaining to competitive solicitations when so acquiring IT resources from a DIS Corporate Agreement. However, this does not remove the agency's obligation to secure approvals as described under the topic "Approvals," nor does this mean that the agency is excused from obtaining products at favorable market pricing.

[Policy Statement number 10, page 4]

DELEGATED AUTHORITY

Delegated authority is the authorization granted by the ISB to an agency director to acquire and/or dispose of Information Technology Resources. Delegated authority may be raised, reduced, or rescinded at the discretion of the ISB. Three basic levels of delegated authority exist:

- None—the agency has no minimum level of delegated authority.
- \$250,000
- \$1,000,000

Delegated authority does not exempt an agency from using the acquisition or disposal processes specified by the ISB—it only exempts the agency from securing ISB or OITO approval prior to conducting the acquisition. Even if the acquisition is within an agency head's delegated authority, the agency must obtain prior ISB or OITO approval if:

- The acquisition does not adhere to established policies on technical standards; or
- The acquisition is not consistent with the agency's strategic information technology plan; or
- The agency seeks to enter into a strategic partnership.

[Policy Statement numbers 2, 3, 4, 6, and 7 pages 1-3]

DEPRECIATED VALUE

Depreciated value is used when estimating the value of an IT resource if it is not possible to determine a current market value for the resource. Depreciated value is to be calculated using the straight- line method:

Depreciated value = Purchase Price less Cumulative Depreciation.

Purchase Price = Total price paid for the resource.

Cumulative Depreciation = Purchase Price/Asset Life.

Asset Life = Number of years in service (typically 5 years or less).

Comment: This approach works because we can assume that salvage value is 0 or unknowable. If a salvage value is known then the person making this calculation should use the current salvage value and not the depreciated value.

[Section IV, number 1 (c), page 21]

DISPOSAL PROCEDURE

Authority for disposal of IT equipment & proprietary software is vested in the Information Services Board via RCW 43.105.041 (1) & (2). The ISB delegates its authority to agencies under policy (the acquisition & disposal policy) established by 43.105.041 (1); 43.105.041 (2) exempts IT resources from the (GA) surplus section of Chapter 43.19.1919 RCW.

OITO approval of the disposal is only necessary if the estimated value of equipment greater than \$100,000. Agencies should complete a Property Disposal Approval Request form and forward this form to the agency's OITO agency coordinator for approval. See the topic "Depreciated Value" above for information on determining the value of IT equipment.

[Section IV, number 1 (a)-(c), page 21; Property Disposal Approval Request form provided in Policy Appendix A]

The OFM financial and administrative manual provides further information on IT disposals. Agencies are not required to report surplus IT related equipment to the Department of General Administration's (GA) Division of Commodity Redistribution (DCR). However, as public entities, agencies have been historically encouraged to make surplus IT resources available to the following organizations prior to offering such IT resources to the general public:

- To other state agencies.
- To school districts.
- To nonprofit organizations.

To accomplish this, agencies can voluntarily use the services of GA's DCR for disposing of IT resources. [OFM Manual "Financial and Administrative Policies, Regulations, and Procedures," sections 3.1.2.2.12 and 3.1.2.3.2; see also OFM requirements for removal of fixed assets from inventory [record-keeping] in section 3.2.2.2.2.]

For disposal of proprietary (generally speaking, commercial off-the-shelf) software, agencies must check the specific software license/ warranty statement provided with each product that is to be surplus or disposed. It should not be assumed that software can simply be disposed of as "trash." Some software license/warranty statements call for return of the disks; some agreements specify the manner of destruction or disposal; some agreements allow for the transfer of the license (though sometimes this requires the written permission of the manufacturer).

FINANCIAL SYSTEMS

The Office of Financial Management (OFM) must approve acquisitions of "financial systems" that account for revenues, expenditures, receipts, disbursements, resources, and obligations [see RCW 43.88.160(1)].

[Section I, number 1 (a), page 10]

INTERAGENCY TRANSFER

An interagency transfer occurs when the ownership or license of IT equipment is transferred from one agency to another. Agencies conducting an interagency transfer of information technology equipment with a depreciated or market value over \$100,000 must submit a plan to OITO for review and approval. Agencies shall estimate the value of IT equipment as the higher of the market value (when available) or depreciated value

[Section II, number 4 (d), page 16]

INTERLOCAL COOPERATIVE PURCHASING

Agencies can purchase IT resources from a contract competitively acquired by another public agency under the Interlocal Cooperative Act (Chapter 39.34 RCW). This act permits public agencies to make the most efficient use of their resources by enabling them to cooperate with other localities on a basis of mutual advantage. However, access to another agency's contract, federal contracts, and other states' contracts are permitted only if the following conditions are met:

- An interlocal cooperative agreement is signed between the agencies and all other required provisions of the Interlocal Cooperative Act are followed by state agencies.
- An approved acquisition method was used in acquiring the information technology resource.
- The solicitation document contains a clause specifically allowing other public agencies to purchase items from the contract.
- The contract does not contain limits on the specific total quantity or total dollar limits of products/services that may be purchased or otherwise restricts the use of the contract to the establishing agency.

Agencies may, whenever practicable, structure solicitation documents and resulting contracts to allow for cooperative purchasing. When doing so, the "originating" agency should provide adequate support and administrative staff to ensure that these cooperative contracts are maintained and updated as necessary to preserve their technical viability and relative market value. Originating agencies may be responsible for periodic audits to ensure contract compliance by "user" agencies and vendors; thus, user agencies must be kept informed of changes in contracts by the originating agency. User agencies should have a copy of the originating agency's contract in their possession in order to understand the terms and conditions applicable to purchases.

[Section II, number 1, page 12; Section II, number 3 (c), pages 14-15]

LEASE/PURCHASE

The State Finance Committee must approve lease/purchase or financial arrangements over \$10,000. Agencies must comply with provisions of Chapter 39.94 RCW.

[Section I, number 1 (c), page 10]

MASTER AGREEMENT

A Master Agreement (also known as master contract) is an optional-use contract for IT products and/or services established only by DIS through a competitive solicitation. DIS can offer agencies discretionary products and services from Master Agreements under powers and duties granted to DIS via the DIS enabling legislation [RCW 43.105.052 (2d)]. Products and services may also be available to local governments if their own contracting rules so allow. Even though Master Agreements are established through a competitive process, agencies should still be aware of the following: (a) agencies should exercise diligence to ensure that they are procuring only the products that are approved for purchase from a particular Master Agreement, and that the agency is receiving full contractual benefits as expressed in the terms and conditions; (b) agencies should check market conditions to ensure that the product(s) are not available elsewhere at a better price and/or terms and conditions; (c) the agency should have a copy of the contract in their possession (ask the contract administrator for a copy). For information on how to use a Master Agreement, contact the Master Agreement at (360) 902-3301.

[Policy Statement number 8, page 3; Section II, number 1, page 12; Section II, number 3 (a), page 14]

OPEN STANDARDS

The Information Services Board has affirmed a strategic direction for the state based upon vendor-neutral specifications and standards, or often-called "open systems" standards. Standards and specifications are generally chosen as state standards based upon industry groups, the federal government's National Institute of Standards and Technology, and predominant market-share (as is the case for operating systems). The ISB has set standards in the areas of operating systems, databases, networking protocols, and electronic mail. There is no delegated authority for noncompliant products. Sometimes, there is a pressing need for a proprietary product (e.g., fingerprint database compatible with federal systems). In these cases, the ISB has established a waiver procedure.

[Policy Purpose number 4, page 1; See also the policy "Computing Architecture in Washington State Government," September 1994, Standards Exception Procedure, page 18.]

PERSONAL AND PURCHASED SERVICES

There are two major kinds of "contract services" related to information technology. The first is "Purchased Services" defined as follows:

RCW 43.105.020 (5): "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing.

RCW 39.29.006 (9): "Purchased services" means services provided by a company to accomplish routine, continuing and necessary functions. This term includes, but is not limited to services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

Purchased service IT acquisitions are subject to the ISB acquisition policy. Approval (OITO or ISB)—if required—occurs prior to the acquisition.

The second kind of (IT) contract services is "Personal Services" defined as follows:

From RCW 39.29.006 (7): "Personal service" means professional, or other technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement."

For personal service acquisitions related to information technology, agencies are subject to the competitive procurement and filing requirements contained in Chapter 39.29 RCW and in the Office of Financial Management's policy manual section "4.3.1, Personal Service Contracts." Whether OFM requires simply a review of the contract, or whether they require approval of the contract, depends on the type of contract (e.g., sole source; competitive), the type of service (e.g., management consulting), and the amount. Thus, OFM is the best source of information as to the specific requirements to be followed in a given situation. However, the following generally applies:

- OFM must review and/or approve competitively procured personal service contracts/amendments in the amount of \$10,000 or more (singly or cumulatively) which are state-funded.
- Sole source contracts/amendments of \$2,500 or more are to be filed with OFM and the Legislative Budget Committee (LBC) and reviewed or approved based upon funding source and dollar amount.
- OFM review/approval is after the acquisition, but before contract services can begin.

[OFM Manual "Financial and Administrative Policies, Regulations, and Procedures," sections 4.3.1.2.1 through 4.3.1.3.1]

[Policy Statement number 5, page 2; Section I, number 1 (b), page 10]

When is computer programming and/or analysis a purchased service versus a personal service?

This question requires some judgment calls as to the exact nature of the programming. The first consideration is whether the programming is to "accomplish routine, continuing, and necessary functions." If it is, then it would seem that the programming is a purchased service. However, OFM holds that any programming that involves design, development, and/or implementation of information systems should be considered a personal service, presumably even if the programming also accomplishes "routine, continuing, and necessary functions." Likewise, even though the RCW 39.29 definition of purchased services contains the phrase "contract programming, and analysis", if the analysis is related to design, development, and/or implementation of an information system, then OFM personal services rules must be used. However, this rule of thumb is further qualified by the relative dollar amounts for personal and purchased services portions of the acquisition (see following question).

Which rules are used when the acquisition is a mix of personal and purchased services or personal services and IT equipment or software?

One must consider what the primary purpose is of the acquisition. It generally follows that where the majority of the money is being spent indicates the purpose of the contract and thus, the applicable rules to follow. If the acquisition is primarily to purchase equipment or software, but it also includes elements of personal services consultation, it would fall under the ISB's acquisition rules. If the acquisition is primarily for system design or development, but includes routine purchased service programming, it would fall under OFM's acquisition rules. The agency should first determine the most significant contract element(s) and thus, the primary purpose of the proposed contract and proceed under the appropriate rules. If after this analysis the agency is still uncertain as to which rules to follow, they may contact their OITO coordinator and/or the OFM personal services contract office.

POLICY MAINTENANCE AND CHANGES

The ISB, through the DIS-Office of Information Technology Oversight (OITO), provides interpretation and routine maintenance of the Acquisition Policy. Acquisition Policy changes require approval from the ISB or its designated subcommittee. OITO develops and approves changes to the acquisition requirements and guidelines, keeping them consistent with the Acquisition Policy and responsive to changes in the prevailing business climate.

PRIVATE SECTOR STRATEGIC PARTNERSHIP

In order to address the problem of rapidly evolving technology, the ISB adopted into policy a means to encourage agencies to acquire new, innovative technology for the purposes of learning, research, and evaluation. This policy is known as a "private sector partnership", and authorizes agencies to explore new and emerging technology in small scale applications that can be monitored and evaluated. With prior approval of OITO, agencies may acquire technology for these situations without a formal competitive process.

The policy allowing for the use of partnerships is broad in order to permit consideration of a wide range of applications. There is no dollar limit on the value of the private sector partnership. There is also no limitation on the types of information technology to be used or acquired. The technology does not even have to be new to the market, merely new to the agency that intends to acquire and evaluate the technology. Note, however, that if the anticipated "partnership" involves primarily the use of personal services, then the activity will be treated as a personal services acquisition subject to OFM policy.

The agency should define the expected duration, respective roles, responsibilities, and expected outcomes of the private sector strategic partnership. The duration of the partnership should be negotiated among the participants, and should generally be one year or less in duration.

While there is no requirement to release a competitive solicitation, the agency should openly advertise their interest in a private sector strategic partnership and develop a structured, documented process to evaluate and select their partner(s). Contributions or resources from the private sector participants should at least equal the state's contribution. The state's contribution (i.e., funding, staff resources, facilities, etc.) should be leveraged against the contributions of the private sector participants.

The state should clearly be under no obligation to continue employing the demonstrated technology beyond the duration of the private sector strategic partnership. The agreement should be defined to ensure that agency program objectives will not be jeopardized as a result of either early termination, or scheduled completion of the partnership.

Some partnerships may involve rights to intellectual property or software developed during the course of the partnership. Some partners may seek exclusive "rights to market" developed applications, or attempt to limit the state's use of information gained during the partnership. But, the purpose of the partnership is for the agency to gain knowledge, including knowledge that could be used to structure future competitive acquisitions based upon the partnership's results. Thus, it is very strongly recommended that the agency create and/or review any such contractual language with the Attorney General's office. This is especially critical in cases where state funds have been expended to develop intellectual property and/or software.

The following are the specific restrictions that apply to private sector partnerships:

- The goods and services "acquired" must be used for the primary purpose of gaining knowledge.
- The agency should conduct a reasonable process for selecting partners. More than one partner could be selected which might then allow competing solutions to be evaluated.
- OITO's prior permission must be granted for agencies (irrespective of their delegated authority) to enter into private sector strategic partnerships.
- If the agency chooses to acquire a full-scale solution beyond the original scope of the partnership, it must conduct an open and competitive process to select the solution. The results of the partnership may be used in further defining the agency's requirements.

[Section II, number 4 (c), page 16]

PROJECT OVERSIGHT & ACQUISITIONS

OITO and the ISB have oversight responsibilities for information technology projects if they meet the following criteria:

- Total project cost is estimated to be \$3 million or more; or
- Total project cost is estimated to be 4 percent or more of the agency's current biennial budget; or
- Oversight is requested by the director or DIS/ISB, OFM, or the Legislature (including, but not limited to, Section 902 budget provisos).

[Operating Budget Instructions for the 1995-97 Biennium, section 6, Technology Resources, number 6.2 Applicability]

Both purchased service and personal service IT projects meeting the above criteria are subject to ISB/OITO oversight. Personal service IT portions of projects, however, would be procured under the OFM acquisition rules and be subject to the competitive procurement and filing requirements in OFM policy. Acquisitions involving IT equipment, software, or purchased services would be subject to ISB acquisition rules. However, acquisitions that are part of a project under oversight are subject to the same approval requirements and delegated authority considerations as any other normal acquisition—there are no "special" approval requirements just because the acquisition involves a project under oversight.

[Policy Statement number 2, page 1-2]

PROTEST PROCEDURE

The Information Technology Act of 1992 (RCW 43.105, the DIS and ISB enabling legislation) directs the ISB to develop and implement a procedure for the resolution of appeals by bidders concerning the conduct of an acquisition process by an agency [see RCW 43.105.041 (6)].

The protest procedure is available to bidders that have submitted a response to the agency's solicitation and have had a debriefing conference. Bidders may appeal an agency's decision to OITO. In certain cases (i.e., a DIS acquisition, or an acquisition approved by the ISB), the agency decision may be appealed to the ISB.

Under the protest procedure, all further steps in the acquisition process, including binding and non-binding negotiations with the apparently successful vendor, must cease until all steps in the protest process (including appeal) are exhausted by the protesting bidder. Under the appeal, OITO (or the ISB) will consider all the available facts. Reviews may include the original protest letter, the agency's response, the bidder's appeal, the solicitation document, evaluation score sheets, and interviews with relevant participants in the acquisition including representatives of the bidder. The decision by OITO or the ISB is final and represents the exhaustion of administrative remedies under the acquisition policy.

[Policy Statement number 4 (e), page 2; Section II, Chart, page 13; Section III, numbers 2-7, pages 18-21]

REQUEST FOR INFORMATION (RFI)

A Request for Information (RFI) is not defined in policy because it is not an acquisition vehicle; it is a means of technical discovery. The RFI is used when an agency has a general idea of the resource(s) to be acquired but may still be in a planning or discovery stage. The RFI can also be useful in developing a potential bidder's list or to determine the degree of competition or resource availability in the market. A RFI can be as simple as a letter to potential bidders asking them to respond to an outline of the resources contemplated by an agency. A contract cannot be awarded as the result of issuing an RFI since there are no elements of evaluation for the proposals, nor do RFIs meet all the tests for competitive solicitations contained in the acquisition policy.

REQUEST FOR PROPOSAL (RFP)

The RFP is used to acquire information technology resources when there are competing functional solutions in the marketplace. The RFP is used to allow companies the opportunity to propose solutions to a set of functional requirements and/or technical specifications. The RFP may be used for projects necessitating the use of diverse resources that must be coordinated with respect to meeting the conditions of a specific business need, integration project, or problem-solving situation. The RFP method generally combines the acquisition of goods and services (e.g., hardware, software, and technical expertise). The RFP process gives the agency the opportunity to select the proposal which provides the best value to the state and best meets agency needs over the expected life of the resource. [Policy Statement number 8, page 3; Section II, numbers 1-2, page 12]

REQUEST FOR QUOTATION (RFQ)

The request for quotation is used to acquire information technology resources that can generally be described using technical, functional, and business specifications, coupled with general requirements (performance, maintenance, delivery, contractual). These resources may be equipment, software, or services. Evaluation of the components of a company's bid is used in the selection process to determine or rank bidder(s). [Policy Statement number 8, page 3; Section II, numbers 1-2, page 12; See also the Model RFP provided in Policy Appendix C]

REQUEST FOR QUOTATION/QUALIFICATION

A Request for Quotation/Qualification (RFQQ) can be used for services, or for a mix of equipment and technical expertise from bidders. The RFQQ may be used when the scope of work or the desired acquisition of resources is well-defined and the agency wishes to determine the ability and/or willingness of the market to perform the work or provide the resource. The objective is to select a bidder qualified to deliver the product(s) and solve/perform any associated technical issues at a price the agency is willing to pay. The evaluation is limited to analysis of the bidder's quoted price elements, and the bidder's qualifications and experience. The RFQQ generally differs from the RFP in that it does not entail the comprehensive evaluation of the bidder's specific solution to an agency's business problem.

[Policy Statement number 8, page 3; Section II, numbers 1-2, page 12]

SOLE SOURCE

The sole source method may be used when there is one source of supply and one or more of the following conditions:

- Demonstrated evidence of technical or economic advantage.
- Compatibility with the current installed base.
- Recovery from a disaster.
- A law or grant funding requires a single source.
- The product is a gift or donation.
- The acquisition cost is under \$10,000.

Sole source means that an IT resource is needed and only one possible supplier exists in the market. However, a single source of supply is not sufficient in and of itself to justify proceeding with the sole source acquisition. It may be that another technical approach exists for which the agency can then find competing and appropriate solutions

in the market. The agency must have demonstrated evidence, or other considerations in policy as listed above, that the technology of interest is advantageous to the agency despite having only one source of supply. However, it is not necessary to get OITO approval for the sole source acquisition (nor present the documented justification) unless the acquisition meets the conditions for prior approval (see topic "Approvals" and "Delegated Authority") by OITO or the ISB.

[Policy Statement number 8, page 3; Section II, number 1, page 12; Section II, number 4 (a), pages 15-16]

SUPPLIES

The Department of General Administration, Office of State Procurement, maintains policies related to the acquisition of supplies for continuing operation, furnishings, and non-technical purchased services. ISB acquisition policy applies to supplies only when they are included as part of the initial information technology acquisition.

TERMS AND CONDITIONS

See topic "Contract Clauses."

VENDOR LIST

Most agencies maintain lists of companies that they have done business with in the past or who have expressed interest in participating in future acquisitions.

OITO maintains a list of companies offering information technology hardware, software, and purchased services. These companies have completed a registration form and indicated what types of products and services they can offer. Buyers may request the name and contact information for any number of companies on the list. To request a search of this list call OITO at (360) 902-3557.

The world wide Internet is another good source of information on companies offering technology related goods and services. OITO provides information on on-line databases of companies at its location on the Internet:

<http://olympus.dis.wa.gov/procurements/business.html>

For acquisitions of hard to find items, unique technical solutions, or very large dollar amounts, it may be necessary to actively solicit participation in a procurement. This can be done by publishing a "Request For Information" (RFI). Notices of RFIs can be published in local, regional, or national newspapers. Notices of RFIs can also be published at no cost on the Internet at through the OITO "acquisition server" (see topic on "Advertising Acquisitions").

VIDEO TELECOMMUNICATIONS EXPENDITURE PLAN

A video telecommunications expenditure plan must be submitted to OITO before an agency may spend any portion of any appropriation for new video telecommunications equipment, transmission or programming, or for expanding current video telecommunications systems. Many agencies choose to detail planned video telecommunications expenditures as part of their agency's strategic information technology plan. In this case, such information may substitute for the necessity to create a separate video telecommunications expenditure plan for each acquisition

[Washington Laws, 1995 (2nd Special Session), Chapter 18, section 903]

Components Of An Acquisition Plan

Agencies initiate the ISB or Office of IT Oversight approval process by submitting an acquisition plan. The content of acquisition plans may take the form of a narrative, or may consists of other documentation. However, the following components must be provided:

- An Acquisition Approval Request Form.
- Business problem to be solved or opportunity gained by the acquisition.
- Alternatives considered including existing state resources.
- Information technology resource(s) to be acquired.
- Explanation as to how the acquisition meets the agency's business needs.
- Relationship to the agency's strategic information technology plan.
- Relationship to ISB and agency technical policy and standards.
- Estimated acquisition cost (first year) and system life cycle costs (five years, or expected life of the resources, whichever is less).
- Acquisition method to be used including the rationale for selecting this method. If known, a list of companies to receive the solicitation document.
- Acquisition and implementation schedule.
- If requested by the approving authority (OITO or the ISB), the expected completion date of the Post Implementation Review (PIR).

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 Washington State
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 April 1996